



April 18, 2022

Lori Gutierrez
Deputy Director
Office of Policy Development
Pennsylvania Department of Health
625 Forster Street, Room 814
Harrisburg, PA 17120
VIA EMAIL to: RA-DHLTCRegs@pa.gov

RE: Proposed Rulemaking No. 10-223 (Long-Term Care Facilities) - 28 PA Code Sections 201.12-201.17, 201.22, 209.1, 209.7, 209.8 and 211.1; Chapter 201

Dear Deputy Director Gutierrez:

On behalf of our 1.8 million members and all older Pennsylvanians, AARP Pennsylvania appreciates the opportunity to submit comments in response to Rulemaking #10-223 (Long-Term Care Facilities). We are pleased that the Pennsylvania Department of Health (the Department) is proposing to update its nursing home licensing regulations at this time. For the past two years, while much attention has focused on jobs and the economy, we have also just begun a long-overdue conversation on another area that the pandemic exposed as terribly inadequate. That area is long-term care – a critical need that can define the quality of life for any one of us. Transforming Pennsylvania’s decades-old nursing home regulations could enhance the lives of all nursing home residents, staff and families. The need to update our long-term care regulations to improve nursing homes has been known for years. Unfortunately, the failure to take action has resulted in nursing home residents including older adults and people with disabilities paying a terrible price in personal safety and quality of life. The system needs an overhaul and regulatory reform is needed.

PROCESS COMMENT: We understand that this proposed rulemaking is the third of now four anticipated packages that will eventually be combined to create a final, comprehensive nursing home regulatory package. While we found it quite challenging and cumbersome to review and comment on three different regulatory packages in isolation, we believe that given the importance and need for meaningful nursing home reform, it was vital that we comment.

SUBSTANTIVE COMMENTS:

Section 201.12: Application for license of a new facility or change of ownership

We support the proposal to expand this section to include applications for a new license or a change in ownership. Nursing home residents have a right to know who owns the facility where they live; their families deserve to know the owners of the facility that house their loved ones; and facility staff ought to know their employer. Clear, transparent ownership disclosure requirements are needed so that the state can screen out providers whose past performance or current inability to provide services makes them a high risk for providing poor-quality services. The state also needs to establish a process that would allow them to collect and publicly report robust corporate ownership and operating data; bar providers from owning, obtaining a license for, or receiving construction approvals for nursing facilities

that have repeatedly been cited for deficiencies in major quality-of-care requirements, consistently providing poor quality care, have a poor financial, managerial, and compliance history, or has routinely discriminated against Medicaid recipients. We also encourage the addition of a public notice and comment process that would make facility ownership more transparent so current and potential residents and their loved ones can make informed decisions about their care needs.

Section 201.13: Issuance of license for a new facility or change in ownership

We support the proposal to expand this section to include the issuance of a license for a new facility or a change in ownership. In addition to the application for a license made above, we add that states should not issue a license to persons with a relevant criminal record or relevant poor credit history. Nor should a license be issued or re-issued to providers whose facilities or service agencies have repeatedly been cited for major deficiencies. Moreover, the financial fitness of a potential owner/manager should also be considered.

Section 201.14: Responsibility of licensee

We support the Department's proposal to add language that highlights the need for the licensee to adhere to all applicable Federal and State laws, rules, regulations, and orders issued by Federal, State, and local agencies.

Section 201.22: Prevention, control and surveillance of tuberculosis (TB)

We support the Department's proposal and encourage that in addition to providing the most current and updated guidance regarding TB that consideration also be given to expanding the section to include addressing any pandemic or outbreak, such as what nursing home residents, families, and staff have experienced with COVID-19 caused by the SARS-CoV-2 virus. In the event of any pandemic or outbreak, the licensee must be required to follow federal, state, and/or local requirements or protocols.

Section 209.7: Disaster Preparedness

One of the challenges encountered in the Department's regulatory proposal process has been reviewing several different packages in isolation rather than in their entirety. We recommend that rather than delete this section, the Department rename the section to: Emergency, Pandemic, and Disaster Preparedness and require each licensee to submit a written plan to address these types of occurrences prior to licensure and annually thereafter.

Section 211.1: Reportable Diseases

We support the Department's adoption of the LTC Work Group to add bed bug infestations to the reporting requirements and encourage the Department to expand the licensee's obligation to report pandemic-prone infectious diseases, such as COVID-19, to the Department.

We appreciate the opportunity to submit these comments and stand ready to assist in this important regulatory review process.

Sincerely,



Bill Johnston-Walsh
State Director
AARP Pennsylvania